

FW 1642

CERTIFICATE OF MAILING

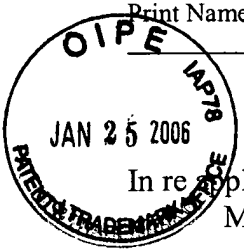
I hereby certify that this communication is being deposited with the U.S. Postal Service, with sufficient postage as First Class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22213-1450, on this 23rd day of January, 2006.

Customer Number

24024

Wendy A. Frick

Print Name



Wendy A. Frick

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Montano, et al.

) Examiner: Yu, Misook
)
)

Serial No.: 09/972,032

) Art Unit: 1642
)
)

Filed: October 5, 2001

) Confirmation No.: 2885
)
)

For: **MODULATORS OF ANITESTROGEN**
PHARMACOLOGY

) Attorney Docket No.: 27708/04003
)
)

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON
FAILURE TO RECEIVE OFFICE ACTION

Mail Stop Petition
Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants, through their attorneys, hereby Petition the Commissioner to withdraw the holding of abandonment for the above-identified application. A Notice of Abandonment was mailed by the Office on January 4, 2006, indicating the application was abandoned for failure to reply to an Office Action dated April 21, 2005. Applicants request withdrawal of the holding of abandonment based on the non-receipt of the Office Action. Furthermore, since Applicants did not receive the Office Action, dated April 21, 2005, along with the Notice of Abandonment, Applicants request that the Office resend the Office Action and reset the due date for response.

In support of this petition, applicants present herewith:

- (1) a statement of facts;
- (2) a copy of the relevant docket sheets;
- (3) a copy of the Notice of Abandonment dated January 4, 2006; and
- (4) a check in the amount of \$130.00 as payment of the petition fee.

01/26/2006 TBESHQ1 0000007 09972032 130.00 OP
01 FC:1464

If any additional fee is due with this petition, please charge our Deposit Account Number 03-0172.

Respectfully submitted,

Date: January 23, 2006

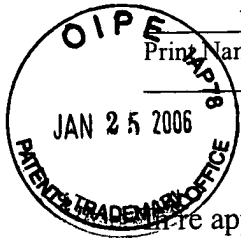
By: Pamela A. Docherty
Pamela A. Docherty, Reg. No. 40,591
(216) 622-8416

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Re application of:

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Serial No.: 09/972,032

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For: **MODULATORS OF ANITESTROGEN
PHARMACOLOGY**

) Examiner: Yu, Misook

) Art Unit: 1642

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By: Pamela A. Docherty
Pamela A. Docherty, Reg. No. 40,591
(216) 622-8416



STATE OF MAILING

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In re application of:
Montano, et al.

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) Examiner: Yu, Misook
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) Art Unit: 1642
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) Attorney Docket No.: 27708/04003
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Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

STATEMENT OF PAMELA A. DOCHERTY

Dear Sir:

I, Pamela A. Docherty, do hereby declare as follows:

1. I am the attorney of record and have primary responsibility for prosecuting the above-described patent application.
2. All correspondence received from the Patent Office relating to this application is forwarded to me by our docket clerk or one of her assistants.
3. I have reviewed the file for the above-described application and did not find an Office Action dated April 21, 2005, for the above-described application in the file.

4. I have reviewed my docket sheets for May of 2005. There is no entry on these docket sheets indicating that a response to a Notice of Missing Parts for the above-identified application was due on May 21, 2005. Copies of the relevant docket sheets are attached hereto.

5. I have no independent recollection of the receipt of an Office Action mailed on April 21, 2005, for the above-described patent application.

January 23, 2005
Date

Pamela A. Docherty
Pamela A. Docherty

Due Date List By Date

Page: 1

Friday, May 20, 2005

19-May-2005 To 24-May-2005

Due Date Indicator	Action Due CHG Matter	Case Number/SubCase Country Client	Status Pat/Reg	App Number Iss/Reg	Attys App Date
19-May-2005 Due Date RPM: TREMCO, INC. -	ANNUITIES DUE	0682101917 Germany 0682104639 <i>Title:</i>			JSC DHD PAD
19-May-2005 Due Date RPM: TREMCO, INC. -	ANNUITIES DUE	0682101917 France 0682104638 <i>Title:</i>			JSC DHD PAD
19-May-2005 Due Date RPM: TREMCO, INC. -	ANNUITIES DUE	0682101917 United Kingdom 0682104633 <i>Title:</i>			JSC DHD PAD
19-May-2005 Due Date	PCT INFORMALITY Follow Up Date PCT INFORMALITY	2647304277 Patent Cooperation Treaty 2647304298 <i>Title:</i>			JSC PAD
20-May-2005 Due Date	EXT IDS	1852504043 / P1 United States of America 1852504123 <i>Title:</i>			PAD KJF
20-May-2005 Due Date	3RD EXTENSION US-MISSING PART	2491304003 United States of America 2491304003 <i>Title:</i>			PAD

Due Date List By Date

Page: 2

Friday, May 20, 2005

19-May-2005 To 24-May-2005

Due Date Indicator	Action Due	Case Number/SubCase	Status	App Number	App Date	Attys
20-May-2005	CHG Matter	Country	Pat/Reg			
Due Date	RE: RECT OF 1ST O.A.?	Client				
	STATUS CHECK	2897204000				PAD
		United States of America				DHD
		2897204000				
		<i>Title:</i>				
21-May-2005	SUPP IDS	2272704079 / D1				PAD
Due Date	EP IDS	United States of America				KJF
		2272704116				JND
		<i>Title:</i>				
21-May-2005	SUPP IDS	2272704079 / D3				PAD
Due Date	EP IDS	United States of America				KJF
		2272704115				JND
		<i>Title:</i>				
21-May-2005	SUPP IDS	2272704079 / D2				PAD
Due Date	EP IDS	United States of America				KJF
		2272704114				JND
		<i>Title:</i>				
21-May-2005	National II (2 MOS TO FINAL)	2272704147				PAD
Reminder.		Patent Cooperation Treaty				KJF
		2272704207				RRL
		<i>Title:</i>				
21-May-2005	11 MO FFL/ELECT PUBLICATION	2272704243				PAD
Due Date	Foreign Filing	United States of America				DHD
		2272704243				SMP
		<i>Title:</i>				

19-May-2005 To 24-May-2005

Due Date Indicator	Action Due	Case Number/SubCase	Status	App Number	App Date	Attys
Action Type	CHG Matter	Country Client	Pat/Reg	Iss/Reg		
22-May-2005 Due Date	EXT IDS	1852504090 United States of America 1852504133 <i>Title:</i>				PAD KJF
22-May-2005 Due Date	EXT SRCH RPT DUE (FROM WIPO)	2641605041 Patent Cooperation Treaty 2641605268 <i>Title:</i>				STM PAD KJF
22-May-2005 Final	Demand (19 months)	2647304271 Patent Cooperation Treaty 2647304296 <i>Title:</i>				JSC PAD
22-May-2005 Due Date	EXT SRCH RPT DUE (FROM WIPO)	2721104078 Patent Cooperation Treaty 2721104124 <i>Title:</i>				PAD DHD
22-May-2005 Final	DEMAND (19 MO)	2721104078 Patent Cooperation Treaty 2721104124 <i>Title:</i>				PAD DHD
22-May-2005 Final	Demand (19 months)	2721104078 Patent Cooperation Treaty 2721104124 <i>Title:</i>				PAD DHD

Due Date List By Date

Friday, May 20, 2005

Page: 4

19-May-2005 To 24-May-2005

Due Date Indicator Action Type	Action Due CHG Matter	Case Number/SubCase Country Client	Status Pat/Reg	App Number Iss/Reg	Attys App Date
22-May-2005 Due Date	EXT SRCH RPT DUE (FROM WIPO)	2951904001 Patent Cooperation Treaty 2951904003			PAD KJF KS
<i>Title:</i>					
22-May-2005 Final	DEMAND (19 MO)	2951904001 Patent Cooperation Treaty 2951904003			PAD KJF KS
<i>Title:</i>					
22-May-2005 Final	Demand (19 months)	2951904001 Patent Cooperation Treaty 2951904003			PAD KJF KS
<i>Title:</i>					
23-May-2005 Due Date RPM: DAY-GLO COLOR CORP.	Tax 11.5	0682100464 / C1 United States of America 0682100687			JSC PAD
<i>Title:</i>					
23-May-2005 Due Date RPM: TREMCO, INC. SEALANTS	11 MO FFL/ELECT PUBLICATION Foreign Filing	0682105668 United States of America 0682105668			PAD KJF
<i>Title:</i>					

Due Date List By Date

Page: 5

Friday, May 20, 2005

19-May-2005 To 24-May-2005

Due Date Indicator	Action Due CHG Matter	Case Number/SubCase Country Client	Status Pat/Reg	App Number Iss/Reg	Attys
23-May-05 Due Date	2ND EXTENSION US FINAL O.A.	2272704083 United States of America 2272704083 <i>Title:</i>		PAD	KJF
23-May-2005 Due Date	MISSING PARTS US-MISSING PART	2272704186 United States of America 2272704186 <i>Title:</i>		PAD	KJF
23-May-2005 Due Date	6 MO FFL/ELECT PUBLICATION Foreign Filing	2272704292 United States of America 2272704292 <i>Title:</i>		PAD	KJF
23-May-2005 Due Date	Search Report Due (from WIPO)	2721104094 Patent Cooperation Treaty 2721104139 <i>Title:</i>		PAD	DHD KJF
23-May-2005 Due Date	Search Report Due (from WIPO)	2721104095 Patent Cooperation Treaty 2721104138 <i>Title:</i>		PAD	KJF
24-May-2005 Final	RE: CRYSTAL HERBS & DESIGN POSSIBLE OPPO	0682100760 Chile MH <i>Trademark:</i>		RR	PAD DHD
24-May-2005 Due Date	F/UP RE INSTR SENT CANADIAN MF RPM: TREMCO, INC. - ROOFING	0682104061 Canada 0682105527 <i>Title:</i>		PAD	DHD KJF

Due Date List By Date

Page: 6

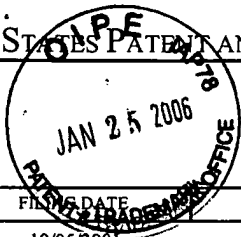
Friday, May 20, 2005

19-May-2005 To 24-May-2005

Due Date Indicator	Action Due CHG Matter	Case Number/SubCase Country Client	Status Pat/Reg	App Number Iss/Reg	Attys
24-May-2005 Final	Article 19 PCT Search Report	1852504083 Patent Cooperation Treaty 1852504127			PAD DHD
<i>Title:</i>					
24-May-2005 Due Date	3 MO FFL/ELECT PUBLICATION Foreign Filing	1852504119 United States of America 1852504119			PAD DHD
<i>Title:</i>					
24-May-2005 Due Date	IDS	2272704281 United States of America 2272704281			PAD DHD
<i>Title:</i>					
24-May-2005 Due Date	3 MO FFL/ELECT PUBLICATION Foreign Filing	2272704281 United States of America 2272704281			PAD DHD
<i>Title:</i>					
24-May-2005 Due Date	EXT IDS	2721104044 / P1 United States of America 2721104106			PAD DHD
<i>Title:</i>					
24-May-2005 Due Date	RE RCPT OF MISSING PARTS STATUS CHECK	2721104060 United States of America 2721104134			PAD DHD JND
<i>Title:</i>					



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,032	10/05/2001	Monica Montano	27708/04003	2885

24024 7590 01/04/2006

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

EXAMINER

YU, MISOOK

ART UNIT	PAPER NUMBER
----------	--------------

1642

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED

JAN 06 2006

D.C. IP. Dept.

DOCKETED

JAN 06 2006

DBC IP. DEPT.

Notice of Abandonment



Application No.

09/972,032

Examiner

MISOOK YU, Ph.D.

Applicant(s)

MONTANO ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 21 April 2005.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Ms. Wendy Frick was notified on 12/27/05 that notice of abandonment would be mailed to applicant.

Misook Yu 12/27/05

MISOOK YU, Ph.D.
Primary Examiner
Art Unit: 1642

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.